

Vishwanath
S. Sherla

Date:
2021.02.23
12:01:07
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 184 OF 2021

Kushal @ Akash Dattatray Prabhu
Age- 22 years, Occupation- Nil,
residing at Flat No. 12, Subharamabh,
Society, General Arun Kumar Vaidya
Nagar, Dwarka, Nashik,
Originally R/o. Mangli Wada,
Tal. Javhar, Dist. Palghar.
[Presently lodged in Nasik Central
Prison Nashik]

...PETITIONER

Versus

The State of Maharashtra
Through P.I.,
Sarkarwada Police Station, Nashik.

...RESPONDENT

...
Mrs. Anjali Navle a/w. Murtuza Nazmi and Namrata Pandit for petitioner.
Mrs. S.D. Shinde, APP for Respondent-State.
...

**CORAM : S. S. SHINDE &
MANISH PITALE, JJ.**

**RESERVED ON : 18th FEBRUARY, 2021.
PRONOUNCED ON: 23rd FEBRUARY, 2021.**

JUDGMENT [PER S. S. SHINDE, J.]:

. Rule. Rule made returnable forthwith and heard with the consent
of learned counsel appearing for the parties.

2. This petition is filed with following prayers:-

B) This Hon'ble Court may be pleased to allow petitioner to be released on emergency parole leave for a period of 45 days;

E) This Hon'ble Court be pleased to set aside order dated 18/09/2020 rejecting parole application by the Superintendent of Nasik Central Jail.

3. The petitioner herein was arrested on 18.10.2015 for the offences punishable under Section 302, 201, 304-A, 364 A read with 384 read with 34 of Indian Penal Code. Since his arrest he is in jail and it appears that he was not released at any time on parole or furlough as the case may be. The Petitioner filed application for emergency parole on 07.09.2020, the said application was rejected on 18.09.2020. The ground given for rejection of said application is that the petitioner was never released on parole/furlough and therefore, the petitioner cannot be released on emergency parole.

4. In our opinion, merely because the petitioner was not released earlier cannot be a ground for rejecting the application of the petitioner for emergency parole. This Court in Criminal Writ Petition-ASDB-LD-VC No. 65 of 2020 (Milind Ashok Patil & Ors. Vs. State of Maharashtra & Ors.) had occasion to consider similar issue and a view is taken in the said case that merely because the petitioner was not released twice in the past on parole/furlough cannot be a ground for rejecting the application for emergency parole.

5. In that view of the matter, the writ petition is partly allowed. The impugned order dated 19.09.2020 is quashed and set aside. The petitioner is granted liberty to apply afresh for grant of emergency Covid-19 parole within one week from today. Upon filing such an application, the respondent authority shall decide the same on its own merits, as expeditiously as possible, however, within two weeks from the date of filing of the application in accordance with the Prisons (Bombay Furlough and Parole) Rules, 1959 and keeping in view the factors like the extent of spread of Covid-19 virus and conditions in jail.

6. Rule is partly made absolute to above extent. The writ petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)